

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**CARLOS ALVAREZ CHICAS and ALONSO  
VILLATORO, individually and on behalf of all others  
similarly situated,**

**Plaintiffs,**

**-against-**

**KELCO CONSTRUCTION, INC., E.L.M. GENERAL  
CONSTRUCTION CORP., JOHN KELLY and  
JOSEPH PROVENZANO**

**Defendants.**

**Case No. 1:21-cv-09014-PAE-  
SDA**

**DEFENDANT KELCO  
CONSTRUCTION, INC.'S  
ANSWER TO PLAINTIFFS'  
COMPLAINT**

Defendants Kelco Construction, Inc. (“Kelco”), E.L.M. General Construction Corp., (“ELM”), John Kelly and Joseph Provenzano (collectively, “Defendants”) hereby respond to the allegations contained in Plaintiffs’ Complaint (“Complaint”) as follows:

1. Answering Paragraph 1 of the Complaint, Defendants admit that it is a landscape installation and construction company that performs work in the New York metropolitan area but denies the remaining allegations contained in the Paragraph.

2. Answering Paragraph 2 of the Complaint, Defendants deny the allegations contained in the Paragraph.

3. Answering Paragraph 3 of the Complaint, Defendants submit that no answer is required because the Paragraph constitutes legal assertions or conclusions. To the extent a response is required, Defendants deny the allegations contained in the Paragraph.

4. Answering Paragraph 4 of the Complaint, Defendants deny the allegations contained in the Paragraph.

### **RESPONSE TO FACTS**

57. Answering Paragraph 57 of the Complaint, Defendant Kelco admits that it was involved in public work projects during the relevant time period. Defendants deny the allegations contained in the Paragraph.

58. Answering Paragraph 58 of the Complaint Defendants submit that no answer is required because the Paragraph constitutes legal assertions or conclusions. To the extent a response is required, Defendants deny the allegations contained in the Paragraph.

59. Answering Paragraph 59 of the Complaint, Defendant deny the allegations contained in the Paragraph.

60. Answering Paragraph 60 of the Complaint, Defendants deny the allegations contained in the Paragraph.

61. Answering Paragraph 61 of the Complaint, Defendants deny the allegations contained in the Paragraph.

62. Answering Paragraph 62 of the Complaint, Defendants deny the allegations contained in the Paragraph.

63. Answering Paragraph 63 of the Complaint, Defendants deny the allegations contained in the Paragraph, except admit that on occasion Alvarez may have received paychecks from both Kelco and ELM during the same week.

64. Answering Paragraph 64 of the Complaint, Defendants admit the allegations contained in the Paragraph, but deny that they were under any obligation to aggregate the hours Alvarez worked.

65. Answering Paragraph 65 of the Complaint, Defendants deny the allegations contained in the Paragraph.